

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 250715-069

WHEREAS, On March 4, 1999, the United States Department of Transportation (USDOT) issued its Disadvantaged Business Enterprise (DBE) Program Final Rule, codified in Part 26 of Title 49 of the Code of Federal Regulations (the Regulations); and,

WHEREAS, In compliance with the Regulations, on August 17, 1999, the former Public Transportation Commission (now known as the San Francisco Municipal Transportation Agency [SFMTA]) (1) approved and adopted a DBE program for implementation by the SFMTA in USDOT-assisted contracts; (2) adopted a policy statement expressing the Commission's commitment to the DBE program, stating the objectives of the DBE program, and outlining responsibilities for its implementation; and (3) ordered distribution of the signed and dated Policy Statement throughout the SFMTA and to the business community, including DBEs and non-DBEs that perform work on USDOT-assisted contracts for the SFMTA; and,

WHEREAS, On May 9, 2005, the U.S. Court of Appeals for the Ninth Circuit issued a decision in *Western States Paving Co. v. Washington State Department of Transportation, et al.*, 407 F.3d 983 (9th Cir. 2005); and,

WHEREAS, The Ninth Circuit upheld USDOT's DBE regulations, but struck down the Washington State Department of Transportation (WSDOT)'s DBE program as unconstitutional because WSDOT did not have sufficient evidence of discrimination to justify a race- and gender-conscious contracting program; and,

WHEREAS, In response to the *Western States* case, the Federal Transit Administration (FTA), an operating administration of USDOT, published guidance concerning the federal DBE program that applies to recipients of USDOT grants in states within the Ninth Circuit, including California; and,

WHEREAS, This guidance instructs that if a recipient does not currently have sufficient evidence of discrimination or its effects in the local market to justify race-conscious contracting, the recipient must meet its annual overall DBE goal solely through race-neutral measures; and,

WHEREAS, In 2006, the SFMTA Board of Directors approved a race-neutral Small Business Enterprise (SBE) program to encourage greater participation by small business firms, including DBEs, in SFMTA contracting using race-neutral measures; and,

WHEREAS, The SFMTA has been taking affirmative steps to use race- and gender-neutral means to achieve DBE participation by establishing SBE goals on federally assisted contracts and utilizing methods identified in the Regulations for obtaining DBE participation; and,

WHEREAS, On March 21, 2017, the SFMTA Board of Directors approved and adopted a revised DBE Program, including a policy statement which it ordered distributed throughout the SFMTA and to the business community, including DBEs and non-DBEs that perform work on USDOT-assisted contracts for the SFMTA; and,

WHEREAS, The Regulations require the SFMTA to (1) set an overall goal for DBE participation in its FTA-assisted contracts; and (2) base the overall goal on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on FTA-assisted contracts; and,

WHEREAS, The Regulations set forth a choice of methodologies that the SFMTA must use to determine, achieve and count its overall DBE Participation goal for federal fiscal years (FFYs) 2026-2028; and,

WHEREAS, SFMTA staff followed one of the methodologies set forth in the Regulations and arrived at an overall goal of 14 percent for DBEs participating in FTA-assisted contracts for FFY 2026-2028; and,

WHEREAS, The SFMTA published notice of the proposed overall DBE goal beginning May 6, 2025 for a 30-day public review period and a concurrent 30-day comment period, and received no comments; and,

WHEREAS, On June 6, 2025, the SFMTA, under authority delegated by the Planning Department, determined that the Disadvantaged Business Enterprise Overall Goal for Fiscal Year 2026-2028 is not a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference, now therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors has reviewed the methodology used to determine the proposed FFY 2026-2028 three-year overall DBE goal for contracting by the SFMTA, and adopts a three-year overall goal of 14 percent for DBE participation in FTA-assisted contracts for FFYs 2026-2028; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the SFMTA to use race- and gender-neutral measures to achieve the overall DBE goal, including the establishment of Small Business Enterprise goals, on FTA-funded contracts; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors directs the Director of Transportation to transmit the FFY 2026-2028 three-year overall DBE goal report to the Federal Transit Administration.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of July 15, 2025.

A handwritten signature in black ink, appearing to read 'Chih', is written above a horizontal line.

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency